

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

PATRICK SULLIVAN
(Assignor)

and

LAKE BROADCASTING, INC.
(Assignee)

Application for Consent to Assignment of
License of FM Translator Station W238CE,
Montgomery, Alabama

) MB Docket No. 14-82
)
) FRN 0003749041, 0006119796,
) 0006149843, 0017196064
)
) Facility ID No. 146162
)
) File No BALFT-20120523ABY
)
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)
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To: Marlene H. Dortch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

**LAKE BROADCASTING, INC.'S PRODUCTION
OF DOCUMENTS FOLLOWING SEPTEMBER 15,
2016 DEPOSITION**

Lake Broadcasting, Inc. ("Lake"), by its attorney, pursuant to Section 1.311 of the Commission's Rules, hereby produces two new documents for the record that resulted from witness testimony by Dr. Kimberly Weitzl at her September 15, 2016 deposition in this proceeding. The documents will also be included in Lake's direct case exhibits at hearing. In support whereof, the following is shown.

1. On behalf of Lake, undersigned counsel deposed Dr. Kimberly Weitzl, a Doctor of Psychology, in St. Louis, Missouri on September 15, 2016. The transcript of that deposition is not yet available, but time is of the essence in presenting this matter. Therefore, Lake will paraphrase the relevant testimony as

context for the submission.

2. Most of Dr. Weitzl's deposition testimony concerned her March 14, 2016 "Sex Offender Evaluation" of Michael Rice (EB Dep. Exh. 3). She did not perform any instrument testing of her own for assessing sex offender risk, but instead relied solely upon her clinical observations without the benefit of any objective measurements. At page 18 of her Evaluation, she pooch-pooched the "Moderate Low" reoffender category into which Mr. Rice fell in the Static-99R (Revised) test that Lake's psychologists had administered previously, and testified that the test form was out of date. As to the Static 2002-R instrument, Dr. Weitzl again noted (at page 18) that Mr. Rice's score fell in the "Moderate Low" risk category, but stated that this is "an underestimate of his risk". Nevertheless, Dr. Weitzl asserted that the Static 2002-R instrument would be preferable to the Static 99-R as an instrument for predicting recidivism. Dr. Weitzl was then questioned about the "Abel Assessment for Sexual Interests" instrument, which she commended as an appropriate vehicle for measuring Mr. Rice's rehabilitation. But she stated that she had not administered that test and was not eligible to do so.

3. Under these circumstances, Lake believes that a full record in this proceeding should include an Abel Assessment and an up-to-date Static 2002-R assessment of Mr. Rice. Attached hereto as Exhibit A is the September 24, 2016 report of Drs. Ann Duncan-Hively and Wells Hively concerning those tests, which they administered on September 20, 2016. Attachment 1 (Abel) puts Mr. Rice in the lower risk group for likelihood of re-offending, and Attachment 2 (2002-R) also

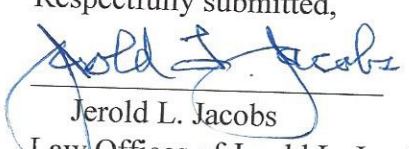
places Mr. Rice in the low risk group.

4. Finally, at the end of their September 24 report, Drs. Duncan-Hively and Hively summarize the results of the two tests (at p. 2):

“[A]fter successfully completing his treatment in prison, Mr. Rice was low risk at the time of his release according to both the Static 99-R and the Static 2002-R. After 16 years in the community without re-offense, according to the scientific research, his risk should be even lower today. Now, at the present time, the Abel assessment of Sexual Interest confirms his low risk status.

By all these objective measures, Mr. Rice has successfully undergone rehabilitation. To conclude otherwise would be to both deny the possibility of rehabilitation and to deny the validity of objective measurement. This appears to be what Dr. Weitzl has chosen to conclude in spite of the evidence to the contrary. Since the Abel was endorsed by Weitzl, the results may allow her to change her testimony to more accurately reflect [Mr. Rice's] rehabilitation status.”

Respectfully submitted,



Jerold L. Jacobs

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Dated: September 26, 2016

Att: Exhibit A – Attachments 1 and 2

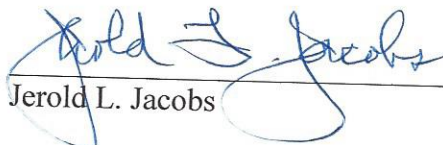
CERTIFICATE OF SERVICE

I, Jerold L. Jacobs, hereby certify that on this 26th day of September, 2016, I filed the foregoing "LAKE BROADCASTING, INC.'S PRODUCTION OF DOCUMENTS FOLLOWING SEPTEMBER 15, 2016 DEPOSITION" in ECFS and caused a copy to be sent via First Class United States Mail and via e-mail to the following:

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DUNCAN-HIVELY PSYCHOLOGICAL SERVICES

*Clinical and Forensic Psychology
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Ann Dell Duncan-Hively, Ph.D., J.D.

Wells Hively, Ph.D

**In re: Michael Rice
Sept. 24, 2016**

To whom it may concern:

In her deposition dated 15 Sept. 2016 Kim Weitzl claimed to have arrived at psychological diagnoses which strongly predicted that Mr. Rice was not "rehabilitated" and would be likely to re-offend in sexual activity with children. She did so without benefit of any objective measurements whatsoever. She also did not take an adequate medical or psychological history. Furthermore she failed to contact any collateral sources of information from 2002 to the present day (i.e. the period documenting rehabilitation or lack thereof).

During her deposition under oath however, she did assert that the Abel Assessment of Sexual Interest would be an appropriate vehicle for measuring Mr. Rice's rehabilitation. Accordingly, we administered this assessment on 9/20/2016. The results are sent directly via telemetry to the computer scoring system in Atlanta, Georgia where the results are interpreted in a "blind read". Attachment 1 shows the results: clearly placing Mr. Rice in the lower risk group for likelihood of re-offending.

Dr. Weitzl also discounted the "low risk" characterization of Mr. Rice provided by the Static 99, claiming that her solo clinical judgment provided a better prediction of his risk for re-offending. (Despite the fact that the Static 99-R is one of the most thoroughly researched instruments designed to predict sexual recidivism.) Apparently she was unaware of research showing that "*Actuarial risk instruments were consistently more accurate than unguided clinical opinion in predicting sexual, violent non-sexual and general recidivism.*" (Hanson and Mortonourgon, Predictors of Sexual Recidivism: an Updated Meta-Analysis, 2004-02, Public Works and Government Services Canada Cat. No.: PS3-1/2004-2, ISBN 0-662-68051-0)

In addition, Dr. Weitzl asserted that the Static 2002-R would be preferable to the Static 99-R as an instrument for predicting recidivism. Accordingly, we rated Mr. Rice on this instrument as well. Attachment 2 shows the results. The Static 2002-R also placed Mr. Rice in the low risk group.

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Empathy, Skill and Experience

Finally, Dr. Weigl seems to have been ignorant of the research which indicates that risk of reoffending declines over the time that an individual lives in the community without re-offense. (Hanson, Harris, Heimus and Thornton, High Risk Sex Offenders May Not Be High Risk Forever, Journal of Interpersonal Violence, 2013)

To summarize: after successfully completing his treatment in prison, Mr. Rice was low risk at the time of his release according to both the Static 99-R and the Static 2002-R. After 16 years in the community without re-offense, according to the scientific research, his risk should be even lower today. Now, at the present time, the Abel Assessment of Sexual Interest confirms his low risk status.

By all these objective measures Mr. Rice has successfully undergone rehabilitation. To conclude otherwise would be to both deny the possibility of rehabilitation and to deny the validity of objective measurement. This appears to be what Dr. Weigl has chosen to conclude in spite of the evidence to the contrary. Since the Abel was endorsed by Weigl, the results may allow her to change her testimony to more accurately reflect his rehabilitation status.


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Empathy Skill and Experience

Michael Rice

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Sexual Recidivism Risk for Males By VRT™ to Children

Client ID 21231

Age 75

Race White/Caucasian

Sex Male

Site ID 1070 Subsite: 0

Test Date 09/20/16 10:48:06 AM

VRT™ to children versus adults can help predict recidivism. Clients who have a higher VRT™ to children are more likely to sexually reoffend. Sexual reoffense includes many other sexual behaviors besides child sexual abuse, including voyeurism, public exposure, fetishism, bestiality, public masturbation, frottage, obscene phone calls/letters and rape.

The validity of the risk estimates depends on the similarity of your client to the participants in the study referenced below. Participants in the study had an AASI™ before receiving cognitive behavioral treatment. They were also monitored by probation officers.

Clients were divided into three risk groups: Higher (a VRT™ of over one standard deviation above the mean, or a ratio of .87), Medium (between one standard deviation above and one standard deviation below the mean) and Lower (below one standard deviation below the mean or a ratio of .47).

Your Client is in the Lower Risk Group

	1 Year	5 Years	10 Years	15 Years
Average Client Risk	1 %	4 %	7 %	9 %
Your Client	1 %	2 %	4 %	5 %

Average Risk: The average client's estimated risk to sexually reoffend at one, five, ten and 15 years.

Your Client's Risk: The estimated risk to sexually reoffend at one, five, ten and 15 years.

Your Client's Ratio is: 0.44 The ratio of VRT™ to children vs. VRT™ to adults + adolescents

Your Client's Percentile is: 13 %

The estimated ranking of this client. The higher the percentile, the more likely the client is to reoffend.

Steven R. Gray, Gene G. Abel, Alan Jordan, Tina Garby, Markus Wiegand, and Nora Harlow. Visual Reaction Time™ as a Predictor of Sexual Offense Recidivism: Sexual Abuse: A Journal of Research and Treatment 1079063213502680, first published on September 20, 2013 as doi: 1079063213502680

Michael Rice

Static-2002R Coding Form

STATIC-2002R CODING		Raw Score	Subscore
ITEMS			
AGE			
1. Age at Release 18 to 34.9 = 2 35 to 39.9 = 1 40 to 59.9 = 0 60 or older = -2 <div style="text-align: right;">Age 58</div>			0
PERSISTENCE OF SEXUAL OFFENDING			
2. Prior Sentencing Occasions for Sexual Offences: No prior sentencing dates for sexual offences = 0 1 = 1 2, 3 = 2 4 or more = 3		0	
3. Any Juvenile Arrest for a Sexual Offence and Convicted as an Adult for a Separate Sexual Offence: No arrest for a sexual offence prior to age 18 = 0 Arrest prior to age 18 and conviction after age 18 = 1		0	
4. Rate of Sexual Offending: Less than one sentencing occasion every 15 years = 0 One or more sentencing occasions every 15 years = 1		0	
Persistence Raw Score (subtotal of Sexual Offending) 0 = 0 1 = 1 2, 3 = 2 4, 5 = 3		0	
Persistence of Sexual Offending SUBSCORE			0
DEVIANT SEXUAL INTERESTS			
5. Any Sentencing Occasion For Non-contact Sex Offences: No = 0 Yes = 1		0	
6. Any Male Victim: No = 0 Yes = 1		1	
7. Young, Unrelated Victims: Does not have two or more victims < 12, one of them unrelated = 0 Does have two or more victims < 12 years, one must be unrelated = 1		0	
Deviant Sexual Interest SUBSCORE			1
RELATIONSHIP TO VICTIMS			
8. Any Unrelated Victim: No = 0 Yes = 1		1	
9. Any Stranger Victim: No = 0 Yes = 1		0	
Relationship to Victims SUBSCORE			1

GENERAL CRIMINALITY		
10. Any Prior Involvement with the Criminal Justice System No = 0 Yes = 1	0	
11. Prior Sentencing Occasions For Anything: 0-2 prior sentencing occasions for anything = 0 3-13 prior sentencing occasions = 1 14 or more prior sentencing occasions = 2	0	
12. Any Community Supervision Violation: No = 0 Yes = 1	0	
13. Years Free Prior to Index Sex Offence: • More than 36 months free prior to committing the sexual offence that resulted in the index conviction AND more than 48 months free prior to index conviction = 0 • Less than 36 months free prior to committing the sexual offence that resulted in the index conviction OR less than 48 months free prior to conviction for index sex offence = 1	0	
14. Any Prior Non-sexual Violence Sentencing Occasion: No = 0 Yes = 1	0	
General Criminality raw score (subtotal General Criminality items) 0 = 0 1, 2 = 1 3, 4 = 2 5, 6 = 3	0	
General Criminality SUBSCORE		0
TOTAL -2 to 13		2

Score **Label for Risk Category**

-2 through 2 = Low
 3, 4 = Low-Moderate
 5, 6 = Moderate
 7, 8 = Moderate-High
 9 plus = High